

## ENVIRONMENTAL PROTECTION COMMISSION[567]

### Notice of Intended Action

#### **Proposing rule making related to new NPDES general permits and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 455B.173(11).

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 455B.173(11) and 455B.186.

#### *Purpose and Summary*

The purpose of the proposed rule making is to allow the use of two new National Pollutant Discharge Elimination System (NPDES) general permits known as General Permit No. 8 (GP8) and General Permit No. 9 (GP9). The discharges that will be authorized by GP8 and GP9 currently require authorization under an individual permit. Compared to general permits, individual permits have more complicated application requirements, have higher fees, and take longer to issue. Covering these discharges under general permits will protect the environment and will provide a benefit to regulated entities. The proposed general permits may be viewed online at [www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits).

GP8 will authorize the discharge of (1) hydrostatic testing water used to verify the integrity of pipes, pipelines, tanks, containers, and other vessels designed to hold liquids or gases; (2) water used as ballast during the installation of a new underground storage tank before any other liquid or gas is added to the tank; and (3) water used to disinfect, flush, or test potable water lines and associated equipment. GP8 includes eligibility criteria and best management practices to ensure that discharges will comply with water quality standards. Most discharges that meet the eligibility requirements will be automatically authorized; an electronic Notice of Intent (eNOI) will only need to be submitted in order to obtain authorization for a few higher-risk discharges. Discharges from water lines are automatically authorized, as are discharges from new or previously used containers that store or are used in the transport of water, natural gas, natural gas liquids, or refined petroleum products that contain no chemical additives (other than chlorine/dechlorination agents). Discharges to the ground surface are automatically authorized provided that no chemicals are added (other than chlorine/dechlorination agents). There are no fees associated with GP8.

GP9 will authorize discharges resulting from (1) excavation dewatering associated with construction activity where pumps, sumps, or similar tools are used within or near excavation areas to remove accumulated groundwater, surface water, and storm water; (2) groundwater dewatering through the installation of temporary dewatering wells, vacuum well points, eductors, or similar tools to cause localized lowering of the water table to facilitate construction activity; and (3) residential open-loop geothermal heating and cooling systems that use water as a heat transfer medium. GP9 includes operating requirements to ensure that discharges will comply with water quality standards. Most discharges will be automatically authorized; an eNOI will only need to be submitted for a few higher-risk discharges. Discharges from residential open-loop geothermal systems are automatically authorized, as are dewatering discharges where no site contamination is expected. There are no fees associated

with GP9. The proposed amendments also clarify that a dewatering discharge from the installation, maintenance, or repair of an agricultural drainage system which does not reach a water of the state is not considered the operation of a wastewater disposal system and does not require an operation permit.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. Overall, the proposed rule making is anticipated to result in a cost savings to the permittees as they will now be able to obtain an authorization under a general permit faster than an individual permit, less paperwork will be required, and there are no fees for these permits. A copy of the impact statement is available upon request from the Department.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found because state and federal law already require permits for these discharges. However, the issuance of these general permits will likely result in cost savings to these permittees. Obtaining an individual permit requires an investment of time and effort that is disproportionate to the impact these discharges usually have on the environment. GP8 and GP9 will benefit the regulated community by providing legal authorization to discharge without the time and cost of obtaining an individual permit.

#### *Waivers*

This rule is subject to the waiver provisions of 561—Chapter 10. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 19, 2018. Comments should be directed to:

Wendy Hieb  
Iowa Department of Natural Resources  
502 East 9th Street  
Des Moines, Iowa 50319  
Fax: 515.725.8202  
Email: [wendy.hieb@dnr.iowa.gov](mailto:wendy.hieb@dnr.iowa.gov)

#### *Public Hearing*

Three public hearings at which persons may present their views orally or in writing will be held as follows:

March 7, 2018 4 p.m.	Coralville Public Library 1401 5th Street Coralville, Iowa
March 8, 2018 4 p.m.	Harlan Community Library 718 Court Street Harlan, Iowa
March 14, 2018 4 p.m.	Urbandale Public Library 3520 86th Street Urbandale, Iowa

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.725.8405.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following new paragraph **64.3(1)“h”**:

*h.* Dewatering discharge from the installation, repair, or maintenance of agricultural drainage systems that does not reach a water of the state. This activity is not considered operation of a wastewater disposal system.

ITEM 2. Adopt the following new subparagraph **64.3(4)“b”(7)**:

(7) For any discharge from hydrostatic testing, tank ballasting and water lines, if required to be submitted by General Permit No. 8, on or after July 1, 2018.

ITEM 3. Adopt the following new subparagraph **64.3(4)“b”(8)**:

(8) For any discharge from dewatering or residential geothermal systems, if required to be submitted by General Permit No. 9, on or after July 1, 2018.

ITEM 4. Adopt the following new subparagraph **64.4(2)“a”(6)**:

(6) Discharges from hydrostatic testing, tank ballasting and water lines.

ITEM 5. Adopt the following new subparagraph **64.4(2)“a”(7)**:

(7) Discharges from dewatering and residential geothermal systems.

ITEM 6. Amend subrule 64.6(1), introductory paragraph, as follows:

**64.6(1) Contents of a complete Notice of Intent.** An applicant proposing to conduct activities covered by a general permit shall file a complete Notice of Intent by submitting to the department materials required in paragraphs “a” to “c” of this subrule except that a Notice of Intent is not required for discharges authorized under General Permit No. 6, for certain discharges under General Permit No. 8, or for certain discharges under General Permit No. 9.

ITEM 7. Adopt the following new subparagraph **64.6(1)“a”(7)**:

(7) General Permit No. 8 “Discharge from Hydrostatic Testing, Tank Ballasting and Water Lines.”

ITEM 8. Adopt the following new subparagraph **64.6(1)“a”(8)**:

(8) General Permit No. 9 “Discharge from Dewatering and Residential Geothermal Systems.”

ITEM 9. Amend subparagraph **64.6(1)“c”(2)** as follows:

(2) General Permits No. 4, No. 5, No. 6, ~~and~~ No. 7, No. 8 and No. 9. There are no public notification requirements for these permits.

ITEM 10. Amend paragraph **64.6(3)“d”** as follows:

*d.* The department finds that discharges from biological pesticides and chemical pesticides which leave a residue are not managed in a manner consistent with the conditions specified in General Permit No. 7, or

- ITEM 11. Adopt the following **new** paragraph **64.6(3)“e”**:
- e.* The department finds that discharges from hydrostatic testing, tank ballasting or water line testing are not managed in a manner consistent with the conditions specified in General Permit No. 8, or
- ITEM 12. Adopt the following **new** paragraph **64.6(3)“f”**:
- f.* The department finds that discharges from dewatering or residential geothermal systems are not managed in a manner consistent with the conditions specified in General Permit No. 9.
- ITEM 13. Adopt the following **new** subrule 64.15(8):
- 64.15(8)** “Discharge from Hydrostatic Testing, Tank Ballasting and Water Lines,” NPDES General Permit No. 8, effective July 1, 2018, to June 30, 2023.
- ITEM 14. Adopt the following **new** subrule 64.15(9):
- 64.15(9)** “Discharge from Dewatering and Residential Geothermal Systems,” NPDES General Permit No. 9, effective July 1, 2018, to June 30, 2023.
- ITEM 15. Renumber subrule **64.16(7)** as **64.16(9)**.
- ITEM 16. Adopt the following **new** subrule 64.16(7):
- 64.16(7)** “Discharge from Hydrostatic Testing, Tank Ballasting and Water Lines,” NPDES General Permit No. 8. No fees shall be assessed.
- ITEM 17. Adopt the following **new** subrule 64.16(8):
- 64.16(8)** “Discharge from Dewatering and Residential Geothermal Systems,” NPDES General Permit No. 9. No fees shall be assessed.